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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,183	01/26/2002	Richard Daigre	7604	4882
7590	10/19/2004		EXAMINER	
			KING, BRADLEY T	
			ART UNIT	PAPER NUMBER
			3683	
DATE MAILED: 10/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/058,183	DAIGRE, RICHARD	
	Examiner Bradley T King	Art Unit 3683	<i>WU</i>

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 25,30 and 32 is/are allowed.
- 6) Claim(s) 1-12 15-24 26 28-29 31 33-34 is/are rejected.
- 7) Claim(s) 13,14 and 27 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites "said deactivating means". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12, 15-16, 18-24, 26, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson (US#2339415).

Larson discloses all the limitations of the instant claims including: a brake (see figure 2) having a friction surface, a brake member (36, 37), a mechanical activator (47, 55), the mechanical activator being mounted to the intermediate member for movement between a first and second positions, the mechanical actuator being on a first side of the rotational axis of the rotary shaft, a spring 72, means to connect the spring to the

intermediate member, a cavity, the cavity being in the intermediate member, said cavity being on the same first side of the rotational axis of the rotary shaft as the mechanical actuator, the cavity being displaced from the friction surface in respect to the longitudinal length or the rotational axis of the shaft, a piston 124, the piston being in the cavity to define a chamber 126, the piston moveable in the cavity in a first direction, the first direction being substantially perpendicular to the rotational axis of the shaft, connect means to connect the piston to the spring and pressurization means to pressurize the chamber to move the spring.

Regarding claim 6-7, Larson discloses a pressure plug 126, a spring plug (70, 76), and means interconnecting the two.

Regarding claim 9, Larson shows deactivating means 84.

Regarding claim 12, Larson discloses a stop 75.

Claims 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox (US#2328619).

Regarding claim 33, Cox discloses all the limitations of the instant claim including; a brake comprising a mechanical activator 45, a cavity, said cavity being in said intermediate member 41, said mechanical activator extending into said cavity, means for said mechanical activator to alter the condition of said brake, a piston 53, said piston being in said cavity, fluid means 54 to move said piston from one to another position in a first direction, said first direction being substantially perpendicular to the rotational axis of the rotary shaft, said piston having a pressure plug and a spring plug

interconnected by a bypass section (see figure 3), said mechanical activator being in said bypass section, and means 51 to bias said piston in a position in respect to said cavity.

Regarding claim 34, Cox discloses all the limitations of the instant claim including; a brake actuator comprising a cavity, said cavity being in the intermediate member 41, a piston 53, said piston being in said cavity defining a chamber, means 41 to mount the brake actuator as an integral unit to said intermediate unit separately from the brake with said piston being in contact with said mechanical operating lever 45, and means 54 to pressurize said chamber to operate the brake.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12, 15-24, 26, 28-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (US# 2328619).

Cox discloses a brake actuator including: a brake (see figure 3) having a friction surface, a brake member (46, 48), a mechanical activator 45, the mechanical activator being mounted to the intermediate member 45 for movement between a first and second positions, the mechanical activator being on a first side of the rotational axis of

the rotary shaft, a spring 51, means to connect the spring to the intermediate member, a cavity, the cavity being in the intermediate member, said cavity being on the same first side of the rotational axis of the rotary shaft as the mechanical actuator, a piston 53, the piston being in the cavity to define a chamber, the piston moveable in the cavity in a first direction, the first direction being substantially perpendicular to the rotational axis of the shaft, connect means to connect the piston to the spring and pressurization means 54 to pressurize the chamber to move the spring. Cox lacks the cavity being displaced from the friction surface in respect to the longitudinal length of the rotational axis of the shaft. It would have been obvious to one of ordinary skill in the art at the time the invention was made to displace the cavity of Cox from the friction surface in respect to the longitudinal of the rotational axis as an obvious design alternative, allowing for a compact installation. Also note *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 6-7, Cox discloses a pressure plug 53, a spring plug 49-50, and means interconnecting the two.

Regarding claim 9, Cox shows deactivating means 53.

Regarding claim 12, Cox discloses a stop in the form of the two ends of rods 49 which stop further spring compression when they come into contact.

Allowable Subject Matter

Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 13-14 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25, 30 and 32 are allowed.

Response to Arguments

Applicant's arguments filed 05/07/2004 have been fully considered but they are not persuasive.

Applicant's arguments with regards to Larson are not persuasive. At least a portion of the actuator of Larson is on the same side as the cavity. Regarding claim 34, Cox shows a separate brake (1, 12 and 15). It is maintained that the rejections are proper.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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Art Unit: 3683

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BTK
October 17, 2004

Douglas C. Butler
PRIMARY EXAMINER
AV3683
10/18/04